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Chief - Supreme Court, U.S.

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IN THE  
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1945

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No. 481

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JAMES J. LAUGHLIN,

*Petitioner,*

vs.

UNITED STATES OF AMERICA,

*Respondent*

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PETITION FOR A WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS FOR THE  
DISTRICT OF COLUMBIA AND BRIEF IN SUP-  
PORT THEREOF.

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JAMES J. LAUGHLIN,

National Press Bldg.,

Washington, D. C.,

*Petitioner in Proper Person.*

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*To the Honorable Harlan F. Stone, Chief Justice of the  
United States, and the Associate Justices of the Supreme  
Court of the United States:*

James J. Laughlin respectfully petitions this Court to grant a writ of certiorari to the United States Court of Appeals for the District of Columbia, to remove therefrom, for review here, the record in the case No. 8757, wherein petitioner is appellant and the United States of America is appellee, and in which case that court announced its opinion under date of April 30, 1945 (R. 354) affirming the judgment of the District Court of the United States for the District of Columbia.

### **Opinion Below**

The opinion in the United States Court of Appeals for the District of Columbia has not yet been reported.

### **Jurisdiction**

The jurisdiction of this Court is invoked under Section 240(a) of the Judicial Code, as amended by the Act of February 13, 1925, and the Act of March 8, 1943. The judgment to be reviewed is the judgment of the United States Court of Appeals for the District of Columbia, dated April 30, 1945 (R. 354), confirming the judgment of the District Court of the United States for the District of Columbia.

Petition for rehearing was denied May 8, 1945. By orders of this Court the time within which petition for writ of certiorari may be filed has been extended to October 3, 1945.

### **Questions Presented**

1. Whether the matters alleged in the rule to show cause constitute a contempt of court in the presence of the court or so near thereto as to obstruct justice.

2. Whether the rule announced in the *Nye* case, 313 U. S. 33, is controlling here.

### **Statement of the Case**

Petitioner is a member of the bar of this Court as well as the District Court of the United States for the District of Columbia, the United States Court of Appeals for the District of Columbia, and the bar of other State and Federal Courts. He represented two defendants in the so-called sedition case. That case was properly designated Criminal No. 73086, in the District Court of the United States for the District of Columbia, and at the outset there

were thirty defendants. The trial began April 17, 1944, and ended in a mistrial on December 7, 1944, due to the death of the presiding judge, the late Honorable Edward C. Eicher, Chief Justice, District Court of the United States for the District of Columbia, and the presiding judge at the sedition trial.

A Petition for rule to show cause was served on petitioner. The petition stated in substance that petitioner had filed certain motions to subpoena various witnesses at the expense of the United States and also had certified to an affidavit of bias and prejudice against Chief Justice Eicher, said affidavit having been executed by one of the defendants represented by petitioner, Robert Noble.

It should be pointed out at this stage that there is a special statute in the District of Columbia permitting indigent defendants to summon various witnesses on behalf of the defendant and at the expense of the United States (Title 23, Section 109, District of Columbia Code, 1940 Edition). This section of the Code provides that the defendant make application under oath before the trial, or in cases of manifest necessity during the trial, setting forth that he is not possessed of sufficient means and is actually unable to pay the fees of such witnesses and setting forth also the names of such witnesses and what he expects to prove by them in order that the Court may be advised whether or not the testimony be material to the issue.

The theory of the contempt citation was that the various motions were not filed in good faith but were filed with an attempt to obtain undue publicity and thus hamper the selection of jurors. However, it should be stated at this point that no evidence was offered at the contempt hearing that any juror had read any of the articles relating to the motions filed by the petitioner or had been

influenced or prejudiced by reason of such motions and hence no jurors were disqualified on this account.

As to the allegations relating to the filing of the affidavit of bias and prejudice against Chief Justice Eicher, the contention was made that the affidavit was not filed in good faith but was filed with the intent and purpose to embarrass Judge Eicher and to prevent a fair and impartial trial.

The record shows that at the time the affidavit of bias and prejudice was filed the court was not in session and in fact the affidavit of bias and prejudice was filed with the Clerk at a time when the Judge was not on the bench and not in the courtroom. As to the various motions the record will show that the motions were filed with the Clerk and were not filed in the presence of the court and were filed at a time when the court was not on the bench or in the courtroom. The publicity resulting from said motions of course took place in various newspapers far removed from the courthouse.

In the hearing in District Court petitioner was found guilty and fined one hundred and fifty dollars (R. 27). The Court of Appeals affirmed the judgment of the District Court (R. 359).

### **Specification of Errors to Be Urged**

The Court of Appeals erred:

1. In holding that the contempt was not within the rule *laid down in Nye v. United States*, 313 U. S. 33.
2. In holding that the contempt was in the presence of the Court.
3. In holding that petitioner was not entitled to a jury trial.
4. In holding that the petitioner's guilt was established beyond a reasonable doubt.

### Reason for Granting the Writ

1. The opinion of the United States Court of Appeals for the District of Columbia in this case is in conflict with the opinion of the United States Court of Appeals for the Sixth Circuit in the case of *Schmidt v. United States*, 124 F. (2d) 177.

2. The United States Court of Appeals for the District of Columbia has not given proper effect to the opinion of this Court in the case of *Nye v. United States*, 313 U. S. 33, 61 S. Ct. 810, and *Bridges v. State of California*, 314 U. S. 252, 62 S. Ct. 190.

WHEREFORE, your petitioner respectfully prays that a writ of certiorari be issued by this Court, directed to the United States Court of Appeals for the District of Columbia commanding that court to certify and send to this Court, for its review and determination, a full and complete transcript of the record and all proceedings in the case numbered and entitled on its docket, No. 8757, James J. Laughlin, appellant, versus United States of America, appellee, and that the judgment of the court below be reversed by this Court, and that your petitioner have such other and further relief in the premises as to this Court may seem just.

JAMES J. LAUGHLIN,  
*National Press Building,*  
*Washington, D. C.,*  
*Petitioner, in Proper Person.*